



SENT VIA ELECTRONIC TRANSMISSION/FIRST-CLASS MAIL

June 23, 2011

Charlie Hoppin
Frances Spivy-Weber
Tam Doduc
State Water Resources Control Board
1001 I Street
PO Box 2815
Sacramento, CA 95812-2815

Re: Implementation

Dear Members of the Board:

On behalf of the San Joaquin River Group Authority ("SJRGa"), I request that the State Water Resources Control Board ("SWRCB") provide, in writing, the legal, factual and analytical basis for its contention that the San Joaquin River flow objectives being considered in the update to the 2006 Bay-Delta Water Quality Control Plan can be implemented through the Federal Energy Regulatory Commission's relicensing process for hydroelectric facilities on the Tuolumne and Merced Rivers. The SWRCB's Revised Notice of Preparation issued on April 1, 2011, specifically and unequivocally indicated that the SWRCB's implementation process would rely upon, and in fact be designed to run in parallel with, the FERC relicensing processes on the Tuolumne and Merced Rivers. Many commenters, including the San Joaquin Tributaries Association, the United States Department of Interior, the United States Department of Commerce, the Chowchilla Water District, San Luis & Delta Mendota Water Authority, Westlands Water District, and California Department of Fish and Game questioned the wisdom, if not the legal ability, of the SWRCB's intention to rely upon the FERC relicensing processes, and particularly the SWRCB's authority under Section 401, as a means of implementing any revised San Joaquin River flow objectives.

The SJRGa believes that before the SWRCB and the regulated community spend millions of dollars going through the process of adopting objectives, evaluating and proposing mitigation for any environmental impacts associated with the new objectives, and adopting a plan for implementing the new objectives, the SWRCB needs to clearly identify and explain the reasons why it contends that reliance upon the FERC relicensing process to implement any new San Joaquin River flow objectives is both legal and prudent. Since this novel approach is the cornerstone of the SWRCB's proposed plan for implementing the new basin plan objectives, the SWRCB needs to provide the people of the State of California with the SWRCB's assessment

demonstrating that such approach is appropriate. If upon reflection, or as the result of additional comments from the regulated community, the SWRCB's assessment of its ability to implement the revised San Joaquin River flow objectives through the FERC relicensing process is incorrect, then the SWRCB will be able to draft a new proposed plan of implementation without having wasted valuable time, energy and resources.

We look forward to receiving the SWRCB's analysis supporting the intended reliance on the FERC relicensing process to implement the revised San Joaquin River flow objectives.

Very truly yours,
O'LAUGHLIN & PARIS LLP



TIM O'LAUGHLIN

TO/tb
cc: Thomas Howard (via email only)